



Montana Department of Transportation
PO Box 201001
Helena, MT 59620-1001

MEMORANDUM

To: See Distribution
From: Mark Wissinger, P.E.
Construction Engineer
Date: October 23, 2006
Subject: Supplemental Specification Revision: 104.02.3 Significant Changes in the Character of Work

The Construction Administration Services Bureau is proposing revisions to Standard Specification, 104.02.3. Following the Standard Specification Revision Process outlined in the Construction Engineer's Memorandum dated January 9, 2002 the following information is provided.

1. Standard Specification, 104.02.3 will be modified.
2. The Proposed Draft of the change is attached along with this memorandum.
3. Revision to the Standard Specification is needed to clarify language that may be misinterpreted. No change is being made to the specifications original intent.
4. Those impacted by the change include:

Contractors, MDT CAS Bureau, MDT Field Crews
5. The following individuals were consulted and/or involved in developing the proposed revisions:

MDT CAS Bureau

*It is requested that written comments on **the proposed revisions only**, be returned to mdtspecifications@mt.gov no later than November 30, 2006.*

DISTRIBUTION:

Loran Frazier	Dist. Const. Engineers	FHWA
Jim Walther	MDT Legal	MCA
Eng. Bureau Chiefs	Construction Reviewers	
District Administrators	Materials Lab Supervisors	

104.02.3 Significant Changes in the Character of Work

The Engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations do not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered.

If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment must be agreed upon before the work is performed. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Contractor in such amount as the Engineer may determine to be fair and equitable.

If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

The term "significant change" applies **when one or more of** the following circumstances **is met**:

- A.** When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction.
- B.** When a major item of work, as defined in Subsection 101.03, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity will apply only to that portion in excess of 125 percent of the original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.
- C.** When an item of work, not defined as a major item in Subsection 101.03, is increased in excess of 150 percent or decreased below 50 percent of the original contract quantity. Any allowance for an increase in quantity will apply only to that portion in excess of 150 percent of the original contract item quantity, or in case of a decrease below 50 percent, to the actual amount of work performed.